REMARKS

Claims 1-28 were rejected based on 35 U.S.C. §112, second paragraph, and because the original claims used the terms "NE" and "network element" interchangeably. Claims 19 and 20 were also objected to because of minor informalities.

Applicant has revised all of the claims to correct the informalities and to address the 35 U.S.C. §112, second paragraph, rejections. Included in Applicant's revisions are the deletion of original claims 5, 6 and 16-28 and substitution of new claims 30-41 in the place of claims 16-28. It should be understood that these changes are not related to patentability.

In addition, Applicant has amended original claims 1-4 and 7-15 and added new claim 29 to correct for minor informalities and to insert proper antecedent bases.

Original claims 1-28 were rejected under 35 U.S.C. §103(a) as being unpatentable over Madonna, U.S. Patent No. 5,544,163 ("Madonna"), in view of Tounai et al., U.S. Patent No. 5,870,382 ("Tounai"). Claims 3-5, 17 and 18 were rejected under 35 U.S.C. §103(a) in view of Madonna in combination with Tounai and Au, U.S. Patent No. 6,473,397 ("Au"). Applicants respectfully disagree.

As the Office Action readily admits, Madonna fails to disclose a network element, or node, which includes a transport overhead message (a feature of claim 1), a request for port identification (a feature of claim 1) and a port detection signal (a feature of claim 1) all of which are sent over an out of band

channel (a feature of claim 1). In an attempt to overcome these gross deficiencies, the Office Action attempts to combine Tounai with Madonna. However, the out of band channel used in Tounai does not transfer the same types of signals as in the present invention because Tounai is aimed at using the out of band channel as a "standby" or "protection" channel when a primary channel is no longer available. In contrast, the present invention makes use of the out of band channel to: (a) enable a port of a first type of network element ("NE") (e.g., a circuit switched port) to request the identity of a port connection belonging to a second type of network element (e.g., a packet switched NE), or (b) transmit a port detection signal to a second type of network element to identify a connected port. There is no disclosure, teaching or suggestion within the combination of Madonna and Tounai, or for that matter the combination of Madonna, Tounai and Au, of a network element capable of identifying a port of a second type of network element (or identifying a port itself) using port identification requests and port detection signals as in the present invention.

In addition, simply adding the queue of Au does not render claims 3, 4, 17 and 18 obvious because the addition of Au's queue to the combination of Madonna and Tounai results in a queue being used in a standby system which is only used when a primary channel is not available and not to identify port connections as in the present invention.

Accordingly, claims 1-4, 7-15, and 29-41 are in condition for allowance. Prompt withdrawal of the pending rejections and allowance of these claims is respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number of the undersigned below.
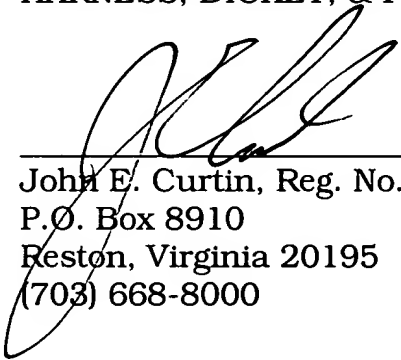
In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By

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